

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

Intermonal application No.

PCT/DE2003/003278

1. This report has been drawn on the basis of (Replacement sheers which have been furnished to the response to an invitation under Article 14 are referred to in tilt report as "originally filed" and are not accessed to the report since they do not contain amendments.): the international application as originally filed.	I. Basis of the report		
the description, pages	1. This report has been drawn under Article 14 are referred	n on the basis of (Replacement sh to in this report as "originally file	neets which have been furnished to the receiving Office in response to an invitation d'and are not annexed to the report since they do not contain amendments.):
pages	the internation	al application as originally file	d.
pages	the description	n, pages1-5	, as originally filed,
the claims, Nos		pages	, filed with the demand,
the claims, Nos		pages	, filed with the letter of,
Nos		pages	, filed with the letter of
Nos	the claims,	Nos	, as originally filed,
Nos. 1-10 , filed with the letter of 15 December 2004 (15.12.2004) , Nos. , filed with the letter of the drawings, sheets/fig 1/5-5/5 , as originally filed, sheets/fig , filed with the demand, sheets/fig , filed with the letter of sheets/fig , filed with the letter of 2. The amendments have resulted in the cancellation of: the description, pages the claims, Nos the drawings, sheets/fig This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).		Nos	, as amended under Article 19,
Nos		Nos	, filed with the demand,
Nos		Nos. 1-10	, filed with the letter of15 December 2004 (15.12.2004) ,
sheets/fig, filed with the demand, sheets/fig, filed with the letter of, the amendments have resulted in the cancellation of:			
sheets/fig, filed with the demand, sheets/fig, filed with the letter of, the amendments have resulted in the cancellation of:	the drawings,	sheets/fig1/5-5/5	, as originally filed,
sheets/fig, filed with the letter of	_		
2. The amendments have resulted in the cancellation of: the description, pages the claims, Nos the drawings, sheets/fig This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).		sheets/fig	, filed with the letter of,
the description, pages the claims, Nos the drawings, sheets/fig This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).		sheets/fig	, filed with the letter of
the claims, Nos the drawings, sheets/fig This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).	2. The amendments have resul	lted in the cancellation of:	
the drawings, sheets/fig This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).	the description	, pages	_
the drawings, sheets/fig This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).	<u> </u>		
This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).	the drawings,		
to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).			-
	3. This report has been to go beyond the disc	established as if (some of) the	amendments had not been made, since they have been considered the Supplemental Box (Rule 70.2(c))
4. Additional observations, if necessary:	•		3-pp. s.m. 50x (x.m. 6 / 0.2(6)).
	4. Additional observations, if r	necessary:	
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【書類名】 要約書

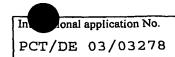
【要約】

【課題】 従来の光学ヘッドにおいては、球面収差検出手段とチルト検出手段 の両方の収差を検出するために非常に複雑な光学系を必要とした。

【解決手段】 光分割手段が情報記録媒体の情報トラックの方向と実質上平行な第1の分割線と、その第1の分割線と実質上直交しかつ前記集光光学系の光軸に対して実質上対称な第2および第3の分割線とにより分割された複数の領域を有し、前記複数の領域から得られた各々の信号を演算して、球面収差誤差信号とチルト誤差信号を得る。

【選択図】 図1

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v.	Reasoned statement under Article 39 citations and explanations supporting	5(2) with regard to nov g such statement	elty, inventive step or industrial applica	bility;
1.	Statement			
ı	Novelty (N)	Claims	10	YES
		Claims	1-9	NO
	Inventive step (IS)	Claims .		YES
		Claims	10	NO
	Industrial applicability (IA)	Claims	1-10	YES
		Claims		NO

- 2. Citations and explanations
 - Reference is made to the following documents:
 - D1: WO 97/05473 A (MEDISPECTRA INC)
 - 13 February 1997
 - D2: WO 02/28273 A (MULLER P; HERMAN P; WILSON B;
 - YANG V) 11 April 2002
 - D3: US-B1-6 377 841 (JANSEN E DUCO ET AL)
 - 23 April 2002
 - D4: WO 01/69199 A (BANERJEE BHASKAR)
 - 20 September 2001
 - D5: DE 196 12 536 A (FREITAG LUTZ DR)
 - 2 October 1997.
 - The present application fails to meet the requirements of PCT Article 33(1) because the subject matter of claims 1, 7 and 8 lacks novelty (PCT Article 33(2)).
 - 2.1 Document D1 is considered to be the prior art closest to the subject matter of claim 1; in so far as said claim can be understood, D1 discloses a similar non-invasive (see page 34, line 13) method. Examples of metabolically relevant substances

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(PCT Article 36 and Rule 70)

Applicant's or agent's file reference K 1537 PCT S3	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)						
International application No.	International filing date (day/	month/year)	Priority date (day/month/year)				
PCT/DE2003/003278	02 October 2003 (02.	10.2003)	09 October 2002 (09.10.2002)				
International Patent Classification (IPC) or national classification and IPC A61B 5/00							
Applicant LA	Applicant LABO TECH LABORTECHNIK GMBH						
 This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36. 							
2. This REPORT consists of a total of	5 sheets, includi	ng this cover s	heet.				
This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).							
These annexes consist of a to	otal of sheets.						
3. This report contains indications relat	ting to the following items:						
I Basis of the report							
II Priority			<u> </u>				
III Non-establishment	of opinion with regard to nove	f opinion with regard to novelty, inventive step and industrial applicability					
IV Lack of unity of in	vention						
V Reasoned statemen citations and explan	t under Article 35(2) with regarations supporting such statemen	under Article 35(2) with regard to novelty, inventive step or industrial applicability; itoms supporting such statement					
VI Certain documents	cited						
VII Certain defects in t	he international application						
VIII Certain observations on the international application							
Date of submission of the demand Date of completion of this report							
11 May 2004 (11.05.2004)		18 January 2005 (18.01.2005)					
Name and mailing address of the IPEA/BP		Authorized officer					
Facsimile No.		Telephone No.					

with autofluorescence are discussed on page 2 of D1. The concentrations indirectly determined by means of a "spectrograph" 110 are mathematically correlated and compared with mathematical models (see the bottom of page 34 to the top of page 36). The method according to claim 1 therefore lacks novelty (PCT Article 33(2)).

It is pointed out that, with regard to signal detection, claim 1 contains no technical features that go beyond the detection of fluorescence intensities.

It is further pointed out that the "conversion" or "interaction" of substances, as defined in claim 1, is neither a technical feature nor a method step but corresponds to an **implicit property** of the organisms to be investigated or of their metabolic processes. The scope of protection sought in claim 1 is therefore not restricted. Moreover, claim 1 lacks clarity (PCT Article 6) in consequence thereof.

- 2.2 Claim 7 contains no technical features that go beyond the method steps of claim 1. In consequence, the subject matter of said claim, likewise, lacks novelty.
- 2.3 Document D1 (see lines 28-29 on page 34 and the term "fibers" 202 in figure 6B) is prejudicial to the novelty of the device according to claim 8.
- 2.4 It is pointed out that the subject matter of claims 1, 7 and 8 is likewise anticipated by

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documents D2 (see figures 1-3 and the associated text, e.g. page 3, line 27), D3 (see column 2, line 36; column 2, line 45 to column 4, line 67) and D4 (claim 1; see "examples" 1-3 and 6; page 9, lines 2-3).

2.5 Dependent claims 2-6, 9 and 10 contain no features which, combined with the features of any claim to which they refer, meet the PCT requirements for novelty and/or inventive step (for example, in respect of claim 4: see D2, page 14, lines 6-8; in respect of claim 10: see D5, column 6, line 35).

VËRTRAG ÜBER DIE INTERNATIONALE ZUSAMMENARBEIT AUF DEM

Absender:

MIT DER INTERNATIONALEN VORLÄUFIGEN PRÜFUNG BEAUFTRAGTE BEHÖRDE

An:				PCT
VON UEXKÜLL, Alexa VOSSIUS & PARTNER Postfach 86 07 67 D-81634 München ALLEMAGNE	EINGEGANG Vossius & Partne 1 9. Jan. 2005	r 	DES INTER PF	G ÜBER DIE ÜBERSENDUNG NATIONALEN VORLÄUFIGEN RÜFUNGSBERICHTS (Regel 71.1 PCT)
	bearb.:	i i	ndedatum Monat/Jahr)	18.01.2005
Aktenzeichen des Anmelders oder K1537 PCT S3	Anwalts		WIC	CHTIGE MITTEILUNG
Internationales Aktenzeichen PCT/DE 03/03278	Internationales Anmelded 02.10.2003	latum (Tag/Monat/Jahr)		Prioritätsdatum (TagMonatUahr) 09.10.2002
Anmelder LABOTECH LABORTECHN	VIK GMBH et al.			

- Dem Anmelder wird mitgeteilt, daß ihm die mit der internationalen vorläufigen Prüfung beauftragte Behörde hiermit den zu der internationalen Anmeldung erstellten internationalen vorläufigen Prüfungsbericht, gegebenenfalls mit den dazugehörigen Anlagen, übermittelt.
- Eine Kopie des Berichts wird gegebenenfalls mit den dazugehörigen Anlagen dem Internationalen Büro zur Weiterleitung an alle ausgewählten Ämter übermittelt.
- Auf Wunsch eines ausgewählten Amts wird das Internationale Büro eine Übersetzung des Berichts (jedoch nicht der Anlagen) ins Englische anfertigen und diesem Amt übermitteln.

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4. ERINNERUNG

Zum Eintritt in die nationale Phase hat der Anmelder vor jedem ausgewählten Amt innerhalb von 30 Monaten ab dem Prioritätsdatum (oder in manchen Ämtern noch später) bestimmte Handlungen (Einreichung von Übersetzungen und Entrichtung nationaler Gebühren) vorzunehmen (Artikel 39 (1)) (siehe auch die durch das Internationale Büro im Formblatt PCT/IB/301 übermittelte Information).

Ist einem ausgewählten Amt eine Übersetzung der internationalen Anmeldung zu übermitteln, so muß diese Übersetzung auch Übersetzungen aller Anlagen zum internationalen vorläufigen Prüfungsbericht enthalten. Es ist Aufgabe des Anmelders, solche Übersetzungen anzufertigen und den betroffenen ausgewählten Ämtern direkt zuzuleiten.

Weitere Einzelheiten zu den maßgebenden Fristen und Erfordernissen der ausgewählten Ämter sind Band II des PCT-Leitfadens für Anmelder zu entnehmen.

Der Anmelder wird auf Artikel 33(5) hingewiesen, in welchem erklärt wird, daß die Kriterien für Neuheit, erfinderische Tätigkeit und gewerbliche Anwendbarkeit, die im Artikel 33(2) bis (4) beschrieben werden, nur für die internationale vorläufige Prüfung Bedeutung haben, und daß "jeder Vertragsstaat (...) für die Entscheidung über die Patentfähigkeit der beanspruchten Erfindung in diesem Staat zusätzliche oder abweichende Merkmale aufstellen" kann (siehe auch Artikel 27(5)). Solche zusätzlichen Merkmale können z.B. Ausnahmen von der Patentierbarkeit, Erfordernisse für die Offenbarung der Erfindung sowie Klarheit und Stützung der Ansprüche betreffen.

Name und Postanschrift der mit der internationalen Prüfung beauftragten Behörde

Bevollmächtigter Bediensteter

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